

CINDY TAYLOR,)
)
 Plaintiff,)
)
 v.) **CIVIL ACTION NO. 5:10-CV-126(MTT)**
)
 WELLS FARGO BANK NA and)
 US BANK NATIONAL ASSOCIATION,)
)
 Defendants.)
 _____)

Pursuant to Federal Rule of Civil Procedure 4(m), the Plaintiff must serve the Defendant with all appropriate papers within 120 days from the filing of the complaint. Rule 4(m) further states that “[i]f a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order service be made within a specified time.” Furthermore, Federal Rule of Civil Procedure 4(h)(1)(b), provides that a corporation, partnership or association may be served “by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process....”

The Plaintiff filed her pro se Complaint (Doc. 1) April 1, 2010. On August 25, 2010, more than 120 days after the Plaintiff filed her Complaint, the Court ordered the Plaintiff to show cause why her case should not be dismissed pursuant to Rule 4(m) for failure to serve the Defendants (Doc. 2). The Plaintiff's Response (Doc. 3) explained

her failure to serve the Defendants and informed the Court she had since served Marissa Connors at Aldridge Connors, LLP, a law firm that is not the registered agent for either of the Defendants. As noted by the Defendants in their Motion to Dismiss, service of process on an attorney not authorized to accept service for his client is ineffective. The Plaintiff's failure to properly serve the Defendants persists despite the fact that the Plaintiff was made aware of the service requirement in both the Defendants' Motion to Dismiss and Response to Plaintiff's Motion for Stay of Eviction (Doc. 12).

Accordingly, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, the Plaintiff's Complaint is **DISMISSED** without prejudice. By the same reasoning, the Plaintiff's Motion to Stay Eviction (Doc. 9) and Motion of Removal and Federal Stay (Doc. 10) are **DENIED**.

SO ORDERED, this 2nd day of December, 2010.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT